

# MAY 2006 ARRC Meeting

## Summary of Issues

**Chairperson:** Representative George Eichhorn

**Vice Chairperson:** Senator Jack Kibbie

**EDUCATION DEPARTMENT,** Pupil transportation, 4/26/06 IAB, ARC 5054B, NOTICE.

**Background:** School bus safety requires a school bus inspection *after* each trip to ensure that no sleeping children are left on the bus. School bus safety also requires that each school bus have a two-way communications system or cellular telephone for emergency communications between the bus driver and the school's transportation department.

**Commentary:** The cost of the communications equipment is borne by the individual school district, not the general fund. The estimated fiscal impact is \$113,000. Some districts already have such equipment.

**Action:** No action taken.

**EMPOWERMENT BOARD,** Community empowerment, 04/26/06 IAB, ADOPTED

**Background:** Community empowerment is established in Code chapter 28 as a program of cooperation between state government and local communities, creating community empowerment areas to improve the well-being of children and their families through early care, education, health and human services.

**Commentary:** Discussion centered around the "school ready children" grant funding component contained in §28.8 as amended by 2005 Acts, chapter 148. Grants are awarded to a community board for a three-year period; continued funding requires the submission of an annual report and the community board using "performance and results indicators" which indicate progress toward and is achieving the desired results identified in the grant plan. Committee members requested information on these indicators, to ensure they provided a valid and reliable assessment tool to determine progress.

**ACTION:** No action.

**ENVIRONMENTAL PROTECTION COMMISSION,** Commercial septic tanks, 04/12/06 IAB, ARC 5042B. NOTICE.

**Background:** In 2005 the legislature enacted House File 834, amending the provisions of §455B.172, relating to the regulation of servicing for septic tanks. Under that section, as amended the department is exclusively responsible for adopting the standards and issuing licenses. However, county boards of health are *required* to enforce the standards and licensing requirements established by the department. The department is empowered to delegate the authority for inspection of land application sites, record reviews, and equipment inspections to a county board of health.

**Commentary:** As a condition of licensure the Act requires that "septic disposal management plans" be submitted to the department and approved annually, and also be filed annually with the county board of health in the county where a proposed septage application site is located. Fines were raised from \$25 to \$250. Under the previous statute, the annual license or license renewal fee was set at \$25.

Under the Act the fee is established by the department based on the volume of septage that is applied to land. Under that authority the annual fee is raised to \$150 per year for the first registered vehicle and \$50 for each additional vehicle. In addition, for the land application of waste there is an additional fee of \$7 per 1,000 gallons of waste.

Department representatives stated this would raise some \$80,000 which could be used for inspections.

Committee members were supportive of this new regulation, but were concerned about the impact on counties, which had the responsibility of enforcing the application and licensing standards. Members noted these responsibilities had greatly increased with the enactment of House File 834 and were concerned about the cost to the counties in enforcing this expanded regulation. For that reason the committee requested a regulatory analysis to determine the impact on county government. When an analysis is requested the rule cannot be adopted in final form until twenty days after a summary of the analysis is published in the Iowa Administrative Bulletin (IAB). More specifically, for that additional period the agency must continue to accept written comments and accept requests for oral presentation. The summary in the IAB must identify the means available for persons who wish to comment on that analysis.

**Action:** Regulatory analysis request. Additional review when the study is complete.

**ENVIRONMENTAL PROTECTION COMMISSION,** Underground storage tanks-compliance inspectors, 04/12/06 IAB, ARC 5044B, ADOPTED.

**Background.** Under the previous rules, underground storage tanks are inspected by EPC staff, with inspections occurring every three to five years. The EPC implements a hybrid system using department trained private inspectors, with the goal of annual inspections.

**Commentary.** This creates a certification program for compliance inspectors; the certification process is similar to a license and sets out minimum qualifications for education and experience, training requirements, and provisions for certification suspension and revocation.

When initially proposed the rules prohibited a company from employing their own inspector; reasoning that inspectors should be completely independent. This restriction has been eliminated, with the thought that an employee familiar with the system would be best able to detect problems. A second change from the proposal dropped inspections from one year to two.

Members raised concerns relating to the conversion of underground storage tanks to "E-85" tanks. Representatives of the Department responded that "E-85" tanks are inspected like any other tank; this rule has no particular affect on the conversion to "E-85" tanks.

**Action.** No action taken.

**ETHICS AND CAMPAIGN DISCLOSURE BOARD,** Use of corporate property, 04/26/06 IAB , NOTICE.

**Background:** Iowa Code §68A.503 prohibits the use of resources belonging to a financial institution, insurance company, or corporation to advocate for or against candidates except under certain circumstances which are specified in the statute itself. Current board rules allow the "occasional, isolated, or incidental use" of corporate property for campaign purposes.

**Commentary:** The current rules are more lenient than the statute itself, which basically allows the use of corporate property for issue-only advocacy. The proposed rule mirrors the statutory scheme but offers little flexibility for any political activity for an individual in the corporate workplace who may have an unplanned campaign related problem or

issue arise; that person must leave their workstation or deal with the situation at a later time.

**Action:** No action.

**HUMAN SERVICES DEPARTMENT,** Medicaid eligibility for nursing home care: transfer of assets, SPECIAL REVIEW; EMERGENCY

**Background:** The Medicaid program pays for nursing home care when a resident has largely exhausted their resources and income. For decades there have been restrictions on a clients ability to transfer assets to another person instead of retaining those assets to fund nursing home care. This rulemaking brings the Iowa Medicaid rules into compliance with the provisions of the Deficit Reduction Act of 2005, relating to Medicaid eligibility for people receiving various types of long-term care services; , the department emergency adopts three revisions to the current rules which further restrict the ability to transfer assets.

**Commentary:** These rules implement three significant changes. In apportioning resources between an "at-home" spouse and an institutionalized spouse, in addition to considering the income of the spouse at home, the income that the spouse in the institution has available to give to spouse at home will also be considered before allocating a higher amount resources to the at-home spouse. A second change provides that entrance fees paid on admission to a continuing care retirement community or an equity interest in a home that exceeds \$500,000 (unless the at-home spouse or a disable child resides in the home) will be considered a resource. The third change relates to the transfer of asset rules for any transfer for less than fair market value that occurs on or after February 8, 2006. The look-back is increased from 36 to 60 months for all assets transfers.

The penalty for asset transfers is changed to begin the 1st of the month in which the assets were transferred or the date the person is otherwise eligible for Medicaid long-term care, whichever is later. Pursuant to the Deficit Reduction Act, partial months of penalty will no longer be rounded down or dropped.

Department representatives noted these provisions were federal mandates which required an emergency filing. The representatives stated that roughly one third of the couples who file appeals for protection of a higher amount of resources for the at-home spouse may be affected by being required to pay for several more months of care before becoming eligible.

**Action:** No action-additional review in June.

**HUMAN SERVICES DEPARTMENT,** Medicaid eligibility for limited services to aliens, 4/12/06 IAB, ARC 5047B, NOTICE.

**Background:** Iowa Medicaid coverage is available to undocumented aliens for treatment of emergency medical conditions, including labor and delivery. Currently, eligibility for this coverage is based on a series of diagnosis codes which denote specific diseases or conditions. The proposal provides that eligibility is based upon the severity of the medical condition, as determined by the physician.

**Commentary:** Department representatives stated this proposal was not an expansion of services. It was also noted that the issue was not whether emergency services were provided—since hospitals are required to provide emergency services; instead the issue is whether the hospitals will be paid by Medicaid for the service. Questions were raised

relating to the amount of and the geographic regions within the state where Medicaid money is spent for this coverage. Questions were also raised regarding "green card", or residency eligibility for medical treatment.

**Action:** No action.

**LOTTERY AUTHORITY,** Monitor vending machines, 04/26/06 IAB, ARC 5069B. ADOPTED.

**Background:** The issues surrounding the development of "monitor vending machines" (MVM) has come before the committee several times since 2002. In December, the lottery authority proposed a number of rules relating to the number and placement of in retail establishments. The general issue of the use of MVM's had been referred to the legislature in August, 2005

**Commentary:** The initial proposal was necessary because of the growing placement of these devices in retail establishments, beginning with the initial placement of some 400 machines to around 5,000 machines in place by January, 2005. This proposal was rendered moot, when the General Assembly, in Senate File 2330 prohibited the continued use of these machines. For that reason the adopted rules removed any reference to these machines.

**Action:** No action.

**PHARMACY BOARD,** Patient counseling on new prescriptions, 04/12/06 IAB, ARC 5033B. ADOPTED.

**Background:** The board completes action on a rulemaking which requires that a pharmacist advise a patient on the proper use of any new prescription being filled.

**Commentary:** The revision makes clear that a mere offer to provide counseling is not adequate---the pharmacist must personally discuss the new prescription with the patient. It was noted that Iowa pharmacists already do this routinely, but problems do occur with mail-order pharmacies, which make no effort to speak to the patient and simply provide an information sheet along with the prescription.

**Action:** No action.

**SECRETARY OF STATE,** Voter registration file (I-VOTERS) management, 4/26/06 IAB, ARC 5056B, NOTICE.

**Background:** The state registrar is responsible for the implementation of a statewide voter registration file of registered voters in the state, known as I-VOTERS. The rules provide for access to voter registration information and fees; procedures to eliminate duplicate or multiple voter registrations; and, procedures for the cancellation and restoration of voting rights for convicted felons.

**Commentary:** The Committee discussed the state registrar's responsibility relating to duplicate or multiple interstate voter registrations. The Secretary of State is working with four surrounding states to address this issue of duplicate or multiple interstate voter registrations.

**Action: No action.**

**Next Meeting.** The June 2006 committee meeting will be held on **Thursday**, June 8<sup>th</sup>, 2006, 9:00 a.m. in the Statehouse, Room #22.

*LSA Staff:* Kathie West, Administrative Code Office, (515) 281-3355.

*Contact Person:* Joe Royce, LSA Staff, (515) 281-3084.

Emily Gardyasz, LSA Staff, (515) 281-4800.